



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
 RICHARD H. DOWNEY)

Appearances:

For Appellants: Richard H. Downey,
in pro. per.

For Respondent: Jon Jensen
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Richard H. Downey against a proposed assessment of additional personal income tax and penalties in the total amount of **\$1,808.43** for the year 1973.

Appeal of Richard H. Downey

On May 7, 1974, appellant filed a 1973 personal income tax return Form 540 with various attachments. Neither the return form nor the attachments disclosed any information concerning appellant's income, his applicable deductions, or his credits for the **1973** tax year. The spaces provided on the form for furnishing this information were filled by appellant with the comment "**Amendt. 4 & 5.**" Thus, appellant declined to furnish any financial information on alleged constitutional grounds--specifically, relying upon those set forth in the Fourth and Fifth Amendments'to the United States Constitution.

Respondent received an employer information return from the City of Los Angeles in which the city explained that it had paid appellant **\$22,882.00** in 1973 as compensation for his **services**. Respondent notified appellant that the form and attachments filed with it did not constitute a valid return because the amount of gross income and the applicable deductions and credits were not shown. Respondent also demanded that appellant file a return containing this information. When appellant failed to do so, respondent issued a deficiency assessment based upon the information received from the employer. The proposed assessment included penalties for failure to file a return and for failure to file a return after notice and demand. (See Rev. & Tax. Code, **§§ 18681 & 18683.**)

It is settled law that respondent's determinations of additional tax, including the penalties involved in this case, are presumptively correct, and that the taxpayer bears the burden of proving that they are wrong. (See, e.g., Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, **1980.**) No such proof has been presented. In fact, the record reveals clearly that respondent's computations of appellant's income are **correct**, and that the penalties are appropriate.

Appellant has made several arguments. We have examined all of them, and we find each one completely lacking in merit. Federal Reserve notes must be reported as income at their **face** value, regardless of how their purchasing power may fluctuate from time to time. (Appeal of Robert S. Means, Cal. St. Bd. of Equal., Jan. 9, 1979.) Similarly, a Form 540 that does not contain any information regarding the taxpayer's income and deductions does not constitute a valid return. (Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July **26, 1977.**)

For the reasons set forth above, we conclude that respondent's action in this matter must be sustained.

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

Done at Sacramento, California, this 28th day
of October, 1980, by the State Board of Equalization,
with **Members Nevins, Reilly, Dronenburg and Bennett** present.

- 583 -